

152 FERC ¶ 61,254  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
Tony Clark, and Colette D. Honorable.

PJM Interconnection, L.L.C.  
Baltimore Gas and Electric Company

Docket No. ER15-2331-000

ORDER ON ABANDONMENT COST RECOVERY AND ESTABLISHING  
HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued September 30, 2015)

1. On July 31, 2015, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Part 35 of the Commission's regulations,<sup>2</sup> and the Commission's May 29, 2009 Order granting certain transmission incentives,<sup>3</sup> PJM Interconnection, L.L.C. (PJM) filed,<sup>4</sup> on behalf of Baltimore Gas and Electric (BGE), revisions to Attachment H-2A of the PJM Open Access Transmission Tariff to allow for recovery of \$1,180,526 in abandoned plant costs associated with the Mid-Atlantic Power Pathway (MAPP) Project that was approved and subsequently canceled by PJM. In this order, we find that, since the MAPP Project was abandoned for reasons beyond BGE's control, it is appropriate to grant BGE's request to recover the prudently-incurred abandonment costs associated with the MAPP Project. However, we find that the instant filing does not contain sufficient

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> 18 C.F.R. pt. 35.

<sup>3</sup> *Baltimore Gas and Elec. Co.*, 127 FERC ¶ 61,201 (2009) (May 29, 2009 Order), *reh'g denied*, 130 FERC ¶ 61,210 (2010).

<sup>4</sup> Pursuant to Order No. 714, this filing is submitted by PJM on behalf of BGE as part of an XML filing package that conforms with the Commission's regulations. PJM has agreed to make all filings on behalf of the PJM Transmission Owners in order to retain administrative control over the PJM Tariff.

information to support the costs BGE is seeking to recover. Accordingly, the Commission accepts PJM's proposed tariff revisions, suspends them for a nominal period, subject to refund, to be effective October 1, 2015, and establishes hearing and settlement judge procedures.

## **I. Background**

2. Relevant to our consideration of this case is a review of three pieces of information: (1) the PJM board's approval of the MAPP Project; (2) BGE's filing—and the Commission's acceptance of that filing—of a formula rate and request for transmission rate incentives; and (3) the procedural history regarding the cancellation of the MAPP Project.

3. First, BGE states the MAPP Project was included in the October 17, 2007 PJM Board-approved Regional Transmission Expansion Plan (RTEP). The MAPP Project was approved to be a \$1.05 billion 500 kV project to run approximately 230 miles from the Possum Point Station at Dumfries, Virginia through the Delmarva Peninsula and terminate at Salem Station in Lower Alloways Creek Township, New Jersey.<sup>5</sup> Following the PJM board's approval of the MAPP Project 2008 in the RTEP on December 4, 2008, PJM provided to BGE a "Notification of Designation of Construction Responsibility." BGE attests that, on January 30, 2009, PJM assigned BGE to build a portion of the Chalk Point to Calvert Cliff 500 kV AC line with a tie to a high-voltage AC/DC Converter Station in Calvert County, Maryland, with a required in-service date of June 2013 and an estimated cost of \$65 million.<sup>6</sup>

4. Second, BGE filed for incentive rates in Docket No. ER09-745-000 that included (1) a 150 basis point incentive adder to BGE's return on equity attributable to the MAPP Project and (2) 100 percent recovery of all prudently incurred costs should the MAPP Project be abandoned for reasons beyond BGE's control. According to BGE, the Commission, pursuant to Order No. 679,<sup>7</sup> granted BGE, as relevant to this order, "the recovery of all expenditures incurred by BGE in connection with the MAPP Project facility if the project is subsequently abandoned for reasons beyond BGE's control."<sup>8</sup>

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<sup>5</sup> BGE transmittal at 1 (citing PJM, Docket No. ER08-229-000, transmittal at 2).

<sup>6</sup> BGE transmittal at 3, Ex. BGE-2.

<sup>7</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (cross-referenced at 117 FERC ¶ 61,345) (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

<sup>8</sup> BGE transmittal at 3 (citing May 29, 2009 Order, 127 FERC ¶ 61,201).

5. Third, with respect to the cancellation of the project, BGE states that the MAPP Project continued to be included in PJM annual RTEPs, but the in-service dates continually changed. Specifically, BGE explains that PJM's 2011 RTEP provided for a 2019-2021 time period in-service date and thus, it continued its developmental activities. According to BGE, none of the MAPP Project was completed and physically placed into service due to cancellation by PJM. The cancellation notification to BGE from PJM occurred on August 28, 2012, informing BGE that the "reliability drivers no longer exist[ed] for the project throughout the 15-year planning cycle."<sup>9</sup>

## II. BGE's Filing

6. Here, BGE seeks recovery of one-half of costs incurred prior to the Commission's order granting the recovery of abandonment costs<sup>10</sup> and full recovery of costs incurred on and after the June 1, 2009 effective date of the May 29, 2009 Order. Specifically, BGE seeks recovery of \$1,180,526 of prudently-incurred abandoned plant costs associated with the BGE 500 kV backbone wholesale transmission facility that was approved, and subsequently cancelled, by PJM under its RTEP Protocols as part of a baseline multi-transmission owner MAPP Project. In making this limited cost recovery request, BGE states that it is relying on the conclusion reached by the Commission with respect to Pepco Holdings, Inc.'s similar request for its larger MAPP Project abandonment cost recovery filing, wherein the Commission found Pepco Holdings to be eligible to recover such costs.<sup>11</sup> BGE proposes to allocate its recovery through the next 12-month period of its formula rate (June 1, 2016 through May 31, 2017), in light of the relatively small amount to be recovered.<sup>12</sup> BGE states that its costs qualify as "prudently-incurred," and BGE has provided a cost breakdown and testimony from Jason Manuel and Robert Munley, in which costs were separated by contractor/professional fees, Allowance for Funds Used During Construction, and BGE's internal labor.<sup>13</sup> In addition, BGE does not seek to include incentive basis points on the return on equity.

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<sup>9</sup> *Id.* at 4, Ex. BGE-4.

<sup>10</sup> *New England Power Co.*, 43 FERC ¶ 61,285 (1988).

<sup>11</sup> BGE transmittal at 5 (citing *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,156, at P 13 (2013)).

<sup>12</sup> *Id.* at 4-6.

<sup>13</sup> *Id.* at 5-8, Att. C, Att. D.

### **III. Notice and Responsive Pleadings**

7. Notice of BGE's July 31, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 46,984 (2015), with interventions and protests due on or before August 21, 2015. On August 11, 2015, American Municipal Power, Inc. (AMP) filed a motion to intervene. No protests or comments were filed. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>14</sup> AMP's unopposed motion to intervene serves to make it a party to this proceeding.

### **IV. Commission Determination**

8. We find that BGE is eligible to recover its prudently incurred costs associated with the abandonment of the MAPP Project, and thus we grant its request to recover those costs. We find that, during the development of the MAPP Project, PJM discovered that the reliability drivers no longer existed for the project throughout the 15-year planning cycle and subsequently canceled the project, and that those circumstances were beyond BGE's control. We also find, however, as discussed below, the specific amount of abandonment costs that BGE proposes to recover as prudently-incurred costs raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.<sup>15</sup>

9. Our preliminary analysis indicates that BGE's request to recover abandonment costs associated with the MAPP Project has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. An analysis of the record indicates factual issues, such as (1) possible discrepancies in costs related to BGE's claims related to the 50 percent reduction in costs incurred prior to the issuance of the May 29, 2009 Order granting certain transmission incentives, and (2) discrepancies associated with receipts provided by BGE, specifically with the costs related to transmission line modifications and upgrades.<sup>16</sup> Accordingly, we will accept BGE's proposed revised tariff sheets, suspend them for a nominal period, subject to refund, to be effective October 1, 2015, and set BGE's proposed abandonment recovery for hearing and settlement judge proceedings.

10. While we are setting these matters for a trial-type evidentiary hearing, we encourage the participants to make every effort to settle their dispute before hearing procedures are commenced. To aid the participants in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to

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<sup>14</sup> 18 C.F.R. § 385.214 (2015).

<sup>15</sup> See, e.g., *Pacific Gas and Elec. Co.*, 137 FERC ¶ 61,193 (2011).

<sup>16</sup> BGE transmittal at 5-8, Att. C, Att. D.

Rule 603 of the Commission's Rules of Practice and Procedure.<sup>17</sup> If the participants desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise the Chief Judge will select a judge for this purpose.<sup>18</sup> The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the participants with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

(A) PJM's proposed tariff revisions are hereby accepted for filing and suspended for a nominal period, to become effective October 1, 2015, subject to refund, and to the outcome of the hearing and settlement judge procedures ordered herein, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of PJM's proposed tariff revisions, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within 15 days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the participants decide to request a specific judge, they must make their request to the Chief Judge within 5 days of the date of this order.

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<sup>17</sup> 18 C.F.R. § 385.603 (2015).

<sup>18</sup> If the participants decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

(D) Within 30 days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the participants with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 60 days thereafter, informing the Commission and the Chief Judge of the participants' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within 15 days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.